

ELEVENTH DAY
(Tuesday, February 1, 1983)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Blake, Brooks, Brown, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Traeger, Truan, Vale, Washington, Whitmire, Williams.

Absent-excused: Caperton, Sharp, Uribe.

A quorum was announced present.

The Reverend Ed Wilder, Trinity United Methodist Church, Austin, offered the invocation as follows:

Heavenly Father, I come to You on behalf of this Senate, and their supportive staff. I pray first for the gift of Knowledge, that they may be able to make sense of the reams of data that flow endlessly in front of them.

I pray secondly for the gift of Wisdom, that they may be sensitive to the needs and concerns of local and special interest groups and at the same time, balance those concerns with the needs and the good of the State.

Thirdly, I pray for strength of Character, that they may endure, with grace, the criticism that comes from not being able to please everyone.

I ask for Your help in this, because I know it is not humanly possible to do all these things and still be smiling at the end of the day.

I ask for the gift of Joy, that they might have the privilege of truly loving and enjoying their work.

Finally, I ask for the gift of Strength, that they will always find enough energy left at the end of the day for their spouses, children, and friends.

All of these things I ask in the name of Jesus Christ. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Sharp was granted leave of absence for today on account of important business on motion of Senator Brown.

Senator Caperton was granted leave of absence for today on account of important business on motion of Senator Edwards.

Senator Uribe was granted leave of absence for today on account of important business on motion of Senator Brooks.

CO-AUTHORS OF SENATE BILL 29

On motion of Senator Traeger and by unanimous consent, Senators Edwards and Whitmire will be shown as Co-authors of S.B. 29.

CO-AUTHOR OF SENATE BILL 219

On motion of Senator Caperton and by unanimous consent, Senator Brooks will be shown as Co-author of S.B. 219.

CO-AUTHOR OF SENATE BILL 221

On motion of Senator Caperton and by unanimous consent, Senator Brooks will be shown as Co-author of S.B. 221.

MESSAGE FROM THE HOUSE

House Chamber
February 1, 1983

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 22, Recognizing February 2, 1983, as Disability Rally Day in Texas.

S.B. 183, Relating to certain permits and leases for public school, university, and asylum land.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Brooks submitted the following report for the Committee on Health and Human Resources:

S.B. 242

Senator Edwards, Acting Chairman, submitted the following report for the Committee on Health and Human Resources:

S.B. 84 (Amended)

Senator Brooks submitted the following report for the Committee on Health and Human Resources:

S.B. 165

Senator Farabee submitted the following report for the Committee on State Affairs:

S.B. 133

S.B. 38

S.B. 68

S.B. 176 (Amended)

S.B. 89

C.S.S.B. 67 (Read first time)

BILL SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill:

S.B. 183

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

S.B. 271 by Montford, Traeger Jurisprudence
Relating to the rights of crime victims and the effect of those rights on the availability of bail and release to parole for defendants.

S.B. 272 by Montford Natural Resources
Relating to the Southern States Energy Compact and its implementation and to the continuation of Texas participation in the compact.

S.B. 273 by Montford Natural Resources
Relating to the membership and administration of the Texas Mining Council and the reporting by and continuation of the office of the Interstate Mining Compact Commissioner for Texas.

S.B. 274 by Glasgow Health and Human Resources
Relating to the authority of the Texas Department of Health to provide funds by grant or contract for the purchase of services, supplies, and equipment for public health purposes; changing certain property accounting methods; adding a new Article 4418f-1, V.T.C.S.; amending Article 601b, V.T.C.S.; providing for retrospective application; establishing an effective date; and declaring an emergency.

S.B. 275 by McFarland Economic Development
Relating to the authority of certain domestic insurance companies to reinsure risks involving aircraft and defined space equipment.

S.B. 276 by Williams State Affairs
Relating to a leave of absence for a state employee who is a disabled veteran.

S.B. 277 by Leedom Economic Development
Relating to the confidentiality of alarm systems records.

S.B. 278 by Brooks, Truan, Health and Human Resources
Parker, Montford, Sims
Relating to the construction of certain pressure vessels and to the regulation of certain pressure vessel manufacturers; providing a penalty.

S.B. 279 by Brooks State Affairs
Relating to payments to convicts on discharge or release from the penitentiary.

S.B. 280 by Jones State Affairs
Relating to an election by a retiree under the Judicial Retirement System of Texas to be a judicial officer.

S.B. 281 by Santiesteban Finance
Relating to a supplemental appropriation to the Board of Pardons and Paroles for certain expenses associated with relocating to different office space to alleviate current overcrowded conditions.

S.B. 282 by Santiesteban Finance
Relating to a supplemental appropriation to the General Land Office.

S.B. 283 by Santiesteban Jurisprudence
Relating to the classification of criminal mischief offenses on the basis of the value of the property damaged or destroyed and the classification of theft offenses on the basis of the value of the property or service stolen.

S.B. 284 by Santiesteban, Parker State Affairs
Relating to the issuance of identification cards to disabled persons for use in parked vehicles.

- S.B. 285** by Leedom State Affairs
Relating to alcoholic beverage permit and license fees and state regulation of distillers and rectifiers of distilled spirits.
- S.B. 286** by Vale Natural Resources
Relating to the executive director of the Texas Department of Water Resources; amending Chapter 5, Water Code, as amended by amending Section 5.171 and by repealing Section 5.135; and declaring an emergency.
- S.B. 287** by Traeger, Blake, Brown, Finance
Williams, McFarland, Henderson, Sharp, Leedom, Sarpalius, Whitmire, Montford, Glasgow, Vale, Harris, Sims, Parker
Relating to the allocation and use of state funds for highways and streets and to providing assistance to cities for city streets.
- S.B. 288** by Leedom, Uribe State Affairs
Relating to an increase in fees, imposed or authorized, charges, assessments, deposits, and penalties charged and collected in connection with their powers and duties by certain state agencies, including the following: Texas Board of Private Investigators and Private Security Agencies; Railroad Commission of Texas; Texas Board of Architectural Examiners; State Board of Trustees, Teacher Retirement System of Texas; Texas Cosmetology Commission; Credit Union Department; Board of Tax Assessor Examiners; Commission on Fire Protection Personnel Standards and Education; Texas Department of Water Resources; State Department of Highways and Public Transportation; Texas Department of Labor and Standards; Texas Department of Health; Texas Department of Human Resources; Texas Structural Pest Control Board; Texas Motor Vehicle Commission; Department of Public Safety; State Board of Barber Examiners; Texas Department of Human Resources; Texas Department of Mental Health and Mental Retardation.
- S.B. 289** by Vale Health and Human Resources
Relating to the establishment of a state program to weatherize homes of needy or elderly individuals or families; requiring reports to the legislature; adding Chapter 34 to Title 2, Subtitle C, Human Resources Code.
- S.B. 290** by Vale Finance
Relating to an exemption from sales and use taxes for certain energy saving materials or devices; adding Section 151.3251 to Chapter 151, Tax Code.
- S.B. 291** by Mauzy Jurisprudence
Relating to the time a claim for compensation shall be made under the Workers' Compensation Act; amending Section 4a, of Article 8307, Revised Civil Statutes; and declaring an emergency.
- S.B. 292** by Mauzy Jurisprudence
Relating to the reduction of workers' compensation death benefits because of benefits paid for prior period of incapacity.
- S.B. 293** by Caperton Economic Development
Relating to the operation and continuation of the State Banking Board.
- S.B. 294** by Caperton Economic Development
Relating to operation of the Banking Department and the continuation and authority of the office of Banking Commissioner of Texas.
- S.B. 295** by Caperton Economic Development
Relating to the composition, operation, and continuation of the Finance Commission of Texas.

S.B. 296 by Uribe

Intergovernmental Relations

Relating to the creation of a judicial district composed of Cameron and Willacy counties.

S.B. 304 by Howard

Economic Development

Relating to the creation, administration, powers, duties, and financing of the Texas Public School Employees Group Insurance Program.

SENATE RESOLUTION 96

Senator Brown offered the following resolution:

WHEREAS, The State of Texas established the Texas State Technical Institute (TSTI) in 1965 as a technical/vocational post-secondary state institution of higher learning for the purpose of training Texans to meet the high technology job demands of Texas industry; and

WHEREAS, The four campus TSTI systems, located at Waco, Harlingen, Amarillo, and Sweetwater, provides a technical/vocational educational opportunity for citizens from all over the state and supplies manpower to a statewide labor pool of skilled technicians; and

WHEREAS, Highly trained graduates are produced by the TSTI educational system, which is characterized by a faculty each of whom has a minimum of five years industrial experience, utilizes a competency based mastery learning instructional approach, and uses 2800 people on advisory committees from Texas business and industry for the 113 different training programs presently being offered; and

WHEREAS, By also utilizing their facilities both during the day and evening hours in a most cost-effective manner, the TSTI system has exhibited a growth in student enrollment from 5000 to 9000 in the last five years; and

WHEREAS, Texas industry has expressed its continuing contribution and support for the TSTI program by establishing the TSTI Development Foundation in 1979 to aid TSTI expansion with scholarships and supplemental assistance in the form of gifts of equipment and materials; now, therefore, be it

RESOLVED, That the Senate of Texas, 68th Legislature, recognize the valuable contribution of the TSTI educational system to the youth of Texas by providing training which will enable them to enter the labor market with the technical skills needed by the growing high technology based economy of Texas; and, be it further

RESOLVED, That the Senate of Texas will continue to support the educational endeavors of the Texas State Technical Institute.

BROWN
URIBE
JONES
EDWARDS
SARPALIUS

The resolution was read and was adopted.

GUESTS PRESENTED

The authors of the resolution were recognized and presented to the Senate members of the Board of Directors of TSTI and graduates of that facility.

They were welcomed by the Senate as guests today.

GUESTS PRESENTED

The President recognized Senator Truan, who presented Dr. Philip Levin, Physician of the Day, and Mr. Mike Speed.

These gentlemen were welcomed as guests of the Senate today.

Senator Williams was recognized and presented his guest, Dr. Drew Williams.

Dr. Williams was welcomed as a guest of the Senate for the day.

SENATE BILL 194 ON SECOND READING

On motion of Senator Doggett and by unanimous consent, the regular order of business, Section 5 of Article III of the State Constitution and all other necessary rules were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 194, Relating to the times at which certain vacancies in state and district offices may be filled and at which the terms of certain state and district officers expire.

The bill was read second time.

Senator Doggett offered the following committee amendment to the bill:

Amend **S.B. 194** by striking Article I and substituting a new Article I to read as follows:

ARTICLE I

SECTION 1. VACANCIES COVERED. (a) This article applies to a vacancy that occurs in a state or district office and that is to be filled by appointment by the governor.

(b) For the purposes of this article, the expiration of a state or district officer's term of office is considered to create a vacancy in the office.

SECTION 2. VACANCIES GOVERNOR MAY NOT FILL. (a) Except as provided by Subsection (d) of this Section, during the period beginning on the November 1 preceding the day of a general election for the office of governor and ending on the day the person elected governor at the election takes office or, if the person elected is unable for any reason to take office as governor, on the day his successor takes office as governor, the incumbent governor may not appoint a person to fill a vacancy covered by this article that occurred before and still existed on that November 1.

(b) This prohibition does not apply to an incumbent governor if the secretary of state proclaims that, according to his count of the returns from the general election, the incumbent governor is reelected.

(c) An appointment made in violation of this section is void.

(d) The prohibition established by Subsection (a) of this Section does not apply to a vacancy covered by this Act that:

(1) is caused by the death of the officeholder that occurs after the October 1 but before the November 1 preceding the day of a general election for the office of governor; and

(2) would not have occurred anyway during that period by the expiration of the officeholder's term of office.

SECTION 3. VACANCIES GOVERNOR MAY FILL FOR PARTIAL TERM. (a) If a vacancy covered by this article occurs during the period prescribed by Section 2(a) of this article, the incumbent governor may appoint a person to fill the vacancy, but only for a partial term expiring February 1 following the occurrence of the vacancy. The successor to the appointee is appointed for the remainder of the term prescribed by law.

(b) The limitation to a partial term does not apply to an appointee of an incumbent governor if the secretary of state proclaims that, according to his count of the returns from the general election, the incumbent governor is reelected. An appointee of a reelected incumbent governor is appointed for the full term prescribed by law.

(c) The limitation to a partial term does not apply to an appointment made under Section 2(d) of this Article. A person appointed under Section 2(d) is appointed for the remainder of the term prescribed by law.

The committee amendment was read.

Senator Doggett offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to **S.B. 194** by striking Section 3 of Article I and substituting a new Section 3 to read as follows:

SECTION 3. VACANCIES GOVERNOR MAY FILL FOR PARTIAL TERM. (a) If a vacancy covered by this article occurs during the period prescribed by Subsection (a) of Section 2 of this article, the incumbent governor may appoint a person to fill the vacancy, but only for a partial term expiring February 1 following the occurrence of the vacancy or, if the constitution of this state prescribes another date until which the vacancy in the specific office may be filled, expiring on the constitutional date.

(b) The limitation to a partial term does not apply to an appointee of an incumbent governor if the secretary of state proclaims that, according to his count of the returns from the general election, the incumbent governor is reelected.

(c) The limitation to a partial term does not apply to an appointment made under Subsection (d) of Section 2 of this article.

The amendment to the committee amendment was read.

On motion of Senator Doggett and by unanimous consent, the amendment to the committee amendment was withdrawn.

Senator Doggett offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to **S.B. 194** by striking Section 3 of Article I and substituting a new Section 3 to read as follows:

SECTION 3. VACANCIES GOVERNOR MAY FILL FOR PARTIAL TERM. (a) If a vacancy covered by this article occurs during the period prescribed by Subsection (a) of Section 2 of this article, the incumbent governor may appoint a person to fill the vacancy, but only for a partial term expiring February 1 following the occurrence of the vacancy or, if Article V of the constitution of this state prescribes another date until which the vacancy in the specific office may be filled, expiring on the constitutional date.

(b) The limitation to a partial term does not apply to an appointee of an incumbent governor if the secretary of state proclaims that, according to his count of the returns from the general election, the incumbent governor is reelected.

(c) The limitation to a partial term does not apply to an appointment made under Subsection (d) of Section 2 of this article.

The amendment to the committee amendment was read and was adopted.

Senator McFarland offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to **S.B. 194** by adding Section 4 to Article I of the bill to read as follows:

SECTION 4. POSTPRIMARY APPOINTMENTS. (a) Sections 2 and 3 of this article do not apply to an incumbent governor who fails to be nominated for another term as governor. For purposes of this section, an incumbent governor fails to be nominated for another term if he is not a candidate for governor in the primary election or is defeated for nomination as governor in the primary election. The failure to be nominated occurs, for purposes of this section, on the date of the general primary election or, if the incumbent governor is defeated in a runoff election, on the date of the runoff election.

(b) An incumbent governor who fails to be nominated for another term as governor may appoint a person to fill a vacancy covered by this article that occurs after the date he fails to be nominated, but only for a partial term expiring on the February 1 following the occurrence of the vacancy.

The amendment to the committee amendment was read and was adopted.

Question on the adoption of the committee amendment as amended, the committee amendment as amended was adopted.

On motion of Senator Doggett and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

RECORD OF VOTE

Senator Leedom asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 194 ON THIRD READING

Senator Doggett moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 194** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 2.

Yeas: Blake, Brooks, Brown, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Traeger, Truan, Vale, Whitmire, Williams.

Nays: Leedom, Washington.

Absent-excused: Caperton, Sharp, Uribe.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 1.

Nays: Leedom.

Absent-excused: Caperton, Sharp, Uribe.

RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolutions:

H.C.R. 19

H.C.R. 5

H.C.R. 21

SENATE BILL 182 ON SECOND READING

On motion of Senator Santiesteban and by unanimous consent, the regular order of business, Section 5 of Article III of the State Constitution and all other necessary rules were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 182, Relating to the trade of public school land.

The bill was read second time and was passed to engrossment.

SENATE BILL 182 ON THIRD READING

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 182** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Washington.

Absent-excused: Caperton, Sharp, Uribe.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent-excused: Caperton, Sharp, Uribe.

SENATE BILL 136 ON SECOND READING

On motion of Senator Traeger and by unanimous consent, the regular order of business, Section 5 of Article III of the State Constitution and all other necessary rules were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 136, Relating to contingency reserves of mutual, level premium, legal reserve life insurance companies.

The bill was read second time and was passed to engrossment.

SENATE BILL 136 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 136** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1.

Nays: Washington.

Absent-excused: Caperton, Sharp, Uribe.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent-excused: Caperton, Sharp, Uribe.

SENATE RULE 103 SUSPENDED

On motion of Senator Mauzy and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Jurisprudence might consider S.B. 13 at 2:00 o'clock p.m. today.

APPOINTMENT BY THE PRESIDENT

The President announced the following appointment:

Senator Santiesteban to be Chairman of the Committee of the Whole Senate.

MEMORIAL RESOLUTION

S.R. 97 - By Doggett: Memorial resolution for Dr. W. Gordon Whaley.

CONGRATULATORY RESOLUTIONS

S.R. 94 - By Brown, Brooks, Leedom, Farabee, Williams, Jones, Glasgow, Howard: Extending congratulations to Mr. and Mrs. Ken Short.

S.R. 95 - By Jones, Farabee, Sims: Commending the West Texas Rehabilitation Center.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 11:46 o'clock a.m. adjourned until 11:00 o'clock a.m. tomorrow.

APPENDIX

Sent to Governor
(February 1, 1983)

S.B. 183

TWELFTH DAY

(Wednesday, February 2, 1983)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Blake, Brooks, Brown, Doggett, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Leedom, Lyon, Mauzy, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Vale, Washington, Whitmire.

Absent-excused: Caperton, Williams.

A quorum was announced present.

The Reverend Tom Deviney, Associate Minister, First United Methodist Church, Austin, offered the invocation as follows:

Heavenly Father, we are gathered this day to consider the business of shaping the future of our state. We ask Your presence among us as we take up this difficult task. Grant us calmness of spirit and clearness of vision that we might make the best possible decisions. Keep us mindful that we are not only dealing with words, numbers, and ideas but also with people's lives. Let us work together for the benefit of all of our brothers and sisters. In the name of Jesus, the Christ, Amen.